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EXAMINER	
TAYLOR, JOSHUA D	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,713	NISHIKAWA ET AL.	
	Examiner	Art Unit	
	JOSHUA TAYLOR	2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2/26/2009 have been fully considered but they are not persuasive. Beginning on page 6 and continuing onto page 7, line 6, Applicant argues that turning the vertical cylinders on their side is **"an extreme modification,"** and that problems result, such as that program names which previously fit would be severed, and that there is nothing in Nakamura or Florin to handle **"such problems and their corresponding ambiguity."** However, Examiner contends that turning the vertical cylinder on its side to become a horizontal cylinder is not an extreme modification, and furthermore that one of ordinary skill in the art at the time of the invention would have found it obvious after repositioning the cylinders to then change the size of the respective boxes and areas so that the text would fit properly, especially with the insight provided by the Florin teaching.

In response to Applicant's argument on page 7, second paragraph, that the combination of Nakamura and Florin will provide program information with a single time, Examiner points Applicant to Nakamura, Figures 2, 3, 6, 10, etc. In these figures, Nakamura shows a plurality of time segments in a vertical column, such as in Figure 3, where channel 1 has segments A1 through A7, wherein these segments A1-A7 represent different programs over a period of time. When the cylinder is turned on its side, these programs will be turned so that the time now runs along the horizontal axis rather than the vertical axis, but still displays a plurality of times.

Regarding Applicant's argument beginning on page 7, third paragraph, and continuing to page 9, third paragraph, concerning the Nikolovska reference, Examiner reminds Applicant that

one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For example, Applicant argues that Nikolovska does not constitute a display on selectable content. Examiner replies that the Nakamura and Florin references teach of selectable content, and that the Nikolovska reference is used primarily to teach the feature of scrolling independently through a cylinder with a plurality of slices. In response to Applicant's argument that Nikolovska teaches away from Applicant's invention, Examiner states that Nikolovska was not, in fact, **"keenly aware of such a display paradigm,"** but was rather only keenly aware that different slices of a cylinder could be rotated independently.

Finally, for the record, Examiner would like to correct a typographical error in the previous Office Action, which stated in the introduction to the first 103 rejection that claim 1-13 were rejected by Nakamura, Florin and Nikolovska, when in fact in the body of the Office Action only claims 1-7 and 9-12 were rejected as such, while claims 8 and 13 were rejected further in view of Sai. This typographical error has been corrected in the instant action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (Pub. No.: US 2003/0167466) in view of Florin (US Pat. 5,583,560), and further in view of Nikolovska (Pat. No.: US 6,505,194).

Regarding claim 1, Nakamura discloses **a method comprising: providing access to a plurality of characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063-0065] i.e., accepting instruction for display EPG data)**; providing a program guide by simultaneously displaying a plurality of the characterizing descriptors for each of a plurality of the discrete selectable items using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as a plurality of three dimensional object** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-[0064])**.** Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information. Nakamura does not disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time.** However, in analogous art, Florin does (Fig. 12, column 15, lines 12-20)**.** Florin discloses that a program guide can be configured so as

to display only programs from a specific time period, in order for users to be able to compare all the programs that are currently on, or will be on at a certain time in the future (Florin, Fig. 12, column 15, lines 12-20). If one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only different between Nakamura and applicant is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combing this view of Nakamura with the teaching of Florin, who further teaches the benefit of allowing a program guide to be divided using a time period, it would be obvious to one of ordinary skill in the art at the time of the invention, and it would yield predictable results, to modify Nakamura by taking these pre-existing time-based cylinders and separating them slightly so that the different time periods were more obvious to the viewer.

Neither Nakamura nor Florin discloses independently scrolling through the plurality of three dimensional objects. However, in analogous art, Nikolovska teaches **wherein each of the plurality of three dimensional objects responding to user input by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors**

displayed on the other three dimensional objects (Fig. 4-9, column 8, lines 21-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the three dimensional display as taught by Nakamura and Florin to include the ability to move individual sections of the display separately. This would have produced predictable and desirable results, in that it can be easier for a user to focus on one element of a display at a time, without the rest of the display changing, as taught by Nikolovska, and thus if each time cylinder could be moved independently, it would allow the user to focus on a specific time period, as taught by Florin, and more easily choose a program of interest in a desirable time slot.

Regarding claim 2, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0011], [0063]-[0064]).

Regarding claim 3, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (paragraph [0110]).

Regarding claims 4, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items** (paragraphs [0105]-[0106]).

Regarding claims 5, **the method of claim 4** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by altering the display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items on a page basis** (paragraphs [0105]-[0106]).

Regarding claims 6, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by signaling user selection of a particular one of the discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claims 7, **the method of claim 6** is rejected as stated above, and Nakamura discloses **further comprising: sending a signal indicating user selection of the particular one of the plurality of discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claim 9, Nakamura discloses **an interactive program guide system comprising: characterizing descriptors for each of a plurality of discrete selectable items of audio/video content; control circuitry that displays a plurality of the characterizing descriptors using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed** (Nakamura, paragraph [0008]), **such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information. Nakamura does not disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time** However, in analogous art, Florin does (Fig. 12, column 15, lines 12-20). Florin discloses that a program guide can be configured so as to display only programs from a specific time period, in order for users to be able to compare all the programs that are currently on, or will be

on at a certain time in the future (Florin, Fig. 12, column 15, lines 12-20). If one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only different between Nakamura and applicant is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combing this view of Nakamura with the teaching of Florin, who further teaches the benefit of allowing a program guide to be divided using a time period, it would be obvious to one of ordinary skill in the art at the time of the invention, and it would yield predictable results, to modify Nakamura by taking these pre-existing time-based cylinders and separating them slightly so that the different time periods were more obvious to the viewer.

Neither Nakamura nor Florin discloses independently scrolling through the plurality of three dimensional objects. However, in analogous art, Nikolovska teaches **wherein the control circuitry is operably responsive to user input to scroll the display of the plurality of the characterizing descriptors, and wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects** (Fig. 4-9, column 8, lines 21-49). Therefore, it would have been obvious to one of ordinary skill in the art

at the time of the invention to modify the three dimensional display as taught by Nakamura and Florin to include the ability to move individual sections of the display separately. This would have produced predictable and desirable results, in that it can be easier for a user to focus on one element of a display at a time, without the rest of the display changing, as taught by Nikolovska, and thus if each time cylinder could be moved independently, it would allow the user to focus on a specific time period, as taught by Florin, and more easily choose a program of interest in a desirable time slot.

Regarding claim 10, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 11, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 12, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura discloses **further comprising: a remote control device; and wherein the control circuitry is operably responsive to the remote control device** (paragraphs [0006]-[0010] and [0105]-[0106]).

Claims 8 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Florin (US Pat. 5,583,560) and Nikolovska (Pat. No.: US 6,505,194) as applied to claims 1 and 9 above respectively, and further in view of Sai et al. (US Pat. 6,822,661).

Regarding claim 8, the combined teachings of Nakamura, Florin and Nikolovska disclose the method of claim 1, but do not disclose further comprising **using a jog dial to do at least one of: scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items; paging a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items.** However, Sai et al does (column 5, lines 11-14). Sai et al. teach that a jog dial could be used in place of directional buttons. Therefore, one skilled in the art would have found it obvious to use a jog dial as an alternative to directional buttons.

Claim 13 is rejected on the same grounds as claim 8 above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 2426

/Joseph G Ustaris/
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